

ESTTA Tracking number: **ESTTA393008**Filing date: **02/11/2011**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	UMG Recordings, Inc.		
Entity	Corporation	Citizenship	Delaware
Address	2220 Colorado Avenue Santa Monica, CA 90404 UNITED STATES		

Attorney information	Jason Jones Fross Zelnick Lehrman & Zissu, P.C. 866 United Nations Plaza New York, NY 10017 UNITED STATES jjones@fzlz.com, ddonahue@fzlz.com Phone: 212-813-5900
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Registration Subject to Cancellation

Registration No	3059241	Registration date	02/14/2006
Registrant	SIGGY MUSIC, INC. 284-C EAST LAKE MEAD PARKWAY SUITE 175 HENDERSON, NV 89015 UNITED STATES		

Goods/Services Subject to Cancellation


Class 025. First Use: 2004/11/01 First Use In Commerce: 2004/11/01
All goods and services in the class are cancelled, namely: Clothing, namely, footwear, shoes, hats, caps, shirts, and jackets

Grounds for Cancellation

Abandonment	Trademark Act section 14
Priority and likelihood of confusion	Trademark Act section 2(d)
Dilution	Trademark Act section 43(c)
Other	Registration is void because the purported assignment of the Application from Applicant to Scrusse Investments violated 15 U.S.C. Â§ 1060(a)(1).

Mark Cited by Petitioner as Basis for Cancellation

U.S. Registration No.	2881064	Application Date	08/13/2003
Registration Date	09/07/2004	Foreign Priority	NONE

		Date	
Word Mark	JACKSON 5		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 1969/04/30 First Use In Commerce: 1969/04/30 MUSICAL SOUND RECORDINGS		

Attachments	76536394#TMSN.gif (1 page)(bytes) F0750871.PDF (9 pages)(278841 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by USPS Express Mail Post Office to Addressee on this date.

Signature	/Jason Jones/
Name	Jason Jones
Date	02/11/2011

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Registration No. 3,059,241

Mark: J5

UMG RECORDINGS, INC.,

Petitioner,

- against -

SIGGY MUSIC, INC.,

Registrant.

Cancellation No. _____

PETITION TO CANCEL

Petitioner UMG Recordings, Inc. (“Petitioner”), a Delaware corporation with a business address at 2220 Colorado Avenue, Santa Monica, California 90404, believes that it would be damaged by the continued registration of the mark J5 (“Registrant’s Mark”) for identified goods in International Class 25, Registration No. 3,059,241 (the “Registration”), registered on February 14, 2006, by the alleged predecessor in interest of Registrant Siggys Music, Inc. (“Registrant”), and therefore petitions to cancel the same. As grounds for this petition to cancel, Petitioner, by its counsel, Fross Zelnick Lehrman & Zissu, P.C., states as follows:

1. For decades, Petitioner and its predecessors in interest (collectively, “Petitioner”) have continuously used, and Petitioner is currently using, the trademarks JACKSON 5, JACKSON 5IVE, and J5 (collectively, “Petitioner’s Marks”) in connection with musical sound recordings, among other related goods and services. As a result of such extensive use of Petitioner’s Marks and substantial promotion of goods and services offered under the marks, Petitioner’s Marks have become and currently are famous and exclusively identified with Petitioner and Petitioner’s goods and services. As such, Petitioner’s Marks represent significant goodwill of Petitioner.

2. Petitioner owns U.S. Registration No. 2,881,064 for the mark JACKSON 5 in connection with “musical sound recordings” in International Class 9 (“Petitioner’s Registration”). A true and correct printout of Petitioner’s Registration from the U.S. Patent and Trademark Office online Trademark Applications and Registrations Retrieval (“TARR”) database is attached hereto as Exhibit 1.

3. Petitioner’s Registration is valid, subsisting, and in full force and effect. Petitioner’s Registration constitutes evidence of the validity of the JACKSON 5 mark and of the registration itself, of Petitioner’s ownership of the JACKSON 5 mark, and of Petitioner’s exclusive right to use the JACKSON 5 mark in commerce in connection with the identified goods pursuant to Section 7(b) of the Lanham Act, 15 U.S.C. § 1057(b).

4. Petitioner’s Registration is incontestable pursuant to Section 15 of the Lanham Act, 15 U.S.C. § 1065, and thus serves as *conclusive* evidence of Petitioner’s exclusive right to use the JACKSON 5 mark in connection with the goods identified in Petitioner’s Registration pursuant to Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

5. On February 22, 2001—long after Petitioner obtained exclusive rights in Petitioner’s Marks—Registrant’s alleged predecessor in interest, Futurist Entertainment, Inc. (“Applicant”), applied to register the J5 mark based on its purported intention to use the mark in connection with identified goods in International Class 25, which later were amended to include “Clothing, namely, footwear, shoes, hats, caps, shirts, and jackets” (the “Application”).

6. On April 25, 2001, Applicant purported to assign the Application to Scruse Investments, Inc. (“Scruse Investments”).

7. Upon information and belief, Applicant did not file an amendment under 15 U.S.C. § 1051(c) to bring the Application into conformity with 15 U.S.C. § 1051(a) and did not

file a verified statement of use under section 15 U.S.C. § 1051(d) before purporting to assign the Application to Scruse Investments.

8. Upon further information and belief, Scruse Investments was not a successor to any business of Applicant, or any portion thereof, to which the mark in the Application pertains.

9. After a notice of allowance issued in connection with the Application, Scruse Investments filed a Statement of Use alleging first use in commerce of Registrant's Mark as of November 1, 2004.

10. The Registration was issued on February 14, 2006. Scruse Investments later purported to assign the Registration to Registrant.

11. The Application was void and the Registration is void because the purported assignment of the Application from Applicant to Scruse Investments violated 15 U.S.C. § 1060(a)(1).

12. Upon information and belief, Registrant has ceased use of Registrant's Mark in connection with some or all of the goods identified in the Registration with no intention to resume use and has abandoned whatever rights it ever could have claimed to own in the mark.

13. Petitioner acquired rights in Petitioner's Marks, and Petitioner's Marks became famous, long before Applicant filed the Application and long before any priority date upon which Registrant can rely.

14. Registrant's Mark is identical to Petitioner's J5 mark.

15. Applicant and Registrant have asserted in sworn declarations submitted to the U.S. Patent and Trademark Office that the J5 mark "is an indicator of secondary source or sponsorship of the JACKSON 5 mark." Registrant's Mark and Petitioner's JACKSON 5 and JACKSON FIVE marks are functionally identical and have identical commercial impressions.

16. The goods identified in the Registration are closely related to the goods offered by Petitioner under Petitioner's Marks.

17. Registrant's use and/or registration of the Registrant's Mark for the goods identified in the Registration is likely to cause confusion, cause mistake or to deceive the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

18. Registrant's use and/or registration of the Registrant's Mark for the goods identified in the Registration is likely to dilute the distinctiveness of Petitioner's Marks in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

19. The continued registration of Registrant's Mark would be inconsistent with Petitioner's prior exclusive rights in Petitioner's Marks and would threaten to destroy Petitioner's investment and goodwill in such marks. Petitioner therefore will be injured by the continued registration of Registrant's Mark.

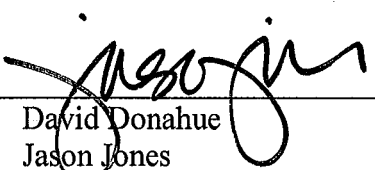
WHEREFORE, Petitioner respectfully requests that this petition to cancel be sustained and that Registration No. 3,059,241 be canceled.

Dated: New York, New York
February 11, 2011

Respectfully submitted,

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: _____


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Attorneys for Petitioner UMG Recordings, Inc.

EXHIBIT 1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2011-02-11 09:57:01 ET

Serial Number: 76536394 Assignment Information Trademark Document Retrieval

Registration Number: 2881064

Mark (words only): JACKSON 5

Standard Character claim: No

Current Status: A Sections 8 and 15 combined declaration has been accepted and acknowledged.

Date of Status: 2010-09-08

Filing Date: 2003-08-13

Transformed into a National Application: No

Registration Date: 2004-09-07

Register: Principal

Law Office Assigned: LAW OFFICE 114

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: M50 -TMO Law Office 114

Date In Location: 2010-09-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. UMG RECORDINGS, INC.

Address:

UMG RECORDINGS, INC.

2220 Colorado Avenue

Santa Monica, CA 90404

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 009
Class Status: Active
MUSICAL SOUND RECORDINGS
Basis: 1(a)
First Use Date: 1969-04-30
First Use in Commerce Date: 1969-04-30

ADDITIONAL INFORMATION

Disclaimer: "5"

Prior Registration Number(s):
965809

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2010-09-08 - Section 8 (6-year) accepted & Section 15 acknowledged

2010-09-07 - Case Assigned To Post Registration Paralegal

2010-08-18 - TEAS Section 8 & 15 Received

2004-09-07 - Registered - Principal Register

2004-06-15 - Published for opposition

2004-05-26 - Notice of publication

2004-04-02 - Approved for Pub - Principal Register (Initial exam)

2004-03-02 - Examiner's amendment mailed

2004-02-21 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record
DeAnne Ozaki

Correspondent

DeAnne Ozaki

Universal Music Group

2220 Colorado Avenue

Santa Monica CA 90404

Phone Number: 310-865-1709

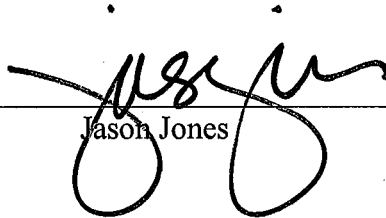
Fax Number: 310-865-1791

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of February 2011, I caused a true and correct copy of the foregoing **PETITION TO CANCEL** to be sent by U.S. Express Mail, postage pre-paid, in an envelope addressed to the correspondent of record for the Registration, as well as to the Registrant as follows:

Gary S. Phillips, Esq.
LAW OFFICES OF GARY S. PHILLIPS
Suite 1100
9401 Wilshire Boulevard
Beverly Hills CA 90212-2924

Siggy Music, Inc.
284-C East Lake Mead Pkwy, Suite 175
Hendersonville, NV 89015



Jason Jones